

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PEDRO BARRAGAN,

Plaintiff,

v.

PERSONNIQ, LLC, JIM F. PRENDERGAST,  
STEVEN RIX,

Defendants.

No. C 14-0475 MMC

**ORDER DENYING AS MOOT  
DEFENDANTS' MOTIONS TO DISMISS  
COMPLAINT**

Before the Court are defendants Personniq, LLC's and Jim F. Prendergast's motions to dismiss Complaint, both filed February 28, 2014.<sup>1</sup> On March 20, 2014, plaintiff filed an amended complaint.

A party may amend a pleading "once as a matter of course within . . . 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." See Fed. R. Civ. P. 15(a). "[A]n amended pleading supersedes the original, the latter being treated thereafter as non-existent." Bullen v. De Bretteville, 239 F.2d 824, 833 (9th Cir. 1956), cert. denied, 353 U.S. 947 (1957).

Here, plaintiff filed his amended complaint within 21 days of the date on which he was served with defendants' respective motions to dismiss, and, consequently, pursuant to

---

<sup>1</sup> Defendants' motions to dismiss were filed before the instant case was reassigned to the undersigned, and neither motion has been renoticed for hearing.

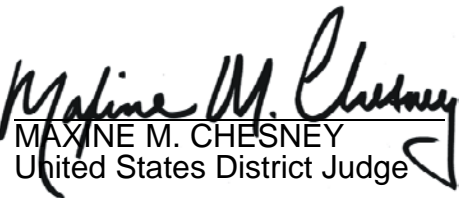
1 Rule 15, was entitled to amend. See Fed. R. Civ. P. 15(a).

2 Accordingly, defendants' motions to dismiss are hereby DENIED as moot.

3 **IT IS SO ORDERED.**

4  
5 Dated: March 24, 2014

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

  
MAXINE M. CHESNEY  
United States District Judge